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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/047,873 | 01/14/2002 | A. Russell Schindler | RTI 0102 PUS | 5922 |

7590 05/19/2003

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EXAMINER

UPTON, CHRISTOPHER

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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1724

DATE MAILED: 05/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

047873

Applicant(s)

Schindler

Examiner

Upton

Group Art Unit

1724

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-26 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-26 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. Claims 23 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 23 lacks antecedent basis for the manifold. In claim 25, it appears that "tubular" should be "tube."

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 9-13, 15, 17-23, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Breslin.

Breslin discloses a system for recovering free product from groundwater comprising an extraction tube on a float, which provides depth adjustment, coupled to a vacuum source, which may be used in a monitoring well (see column 12, lines

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40-45) and uses a pressure monitoring system to monitor the free product, as claimed. With respect to the recitation of multiple units and a manifold, it is submitted that the disclosure of multiple units operating from a single vacuum source (column 13, lines 10-13) requires such a manifold.

4. Claims 1 and 3-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Croy or Bzorgi.

Croy and Bzorgi each disclose suction extraction devices for removing free product from a well, with float type depth adjustment means, as claimed.

5. Claims 2 and 8-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Croy in view of Billings et al or Ellis.

Claims 2, 8-15 and 17-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bzorgi in view of Billings et al or Ellis.

Claims 2, 9, 20 and their dependent claims differ from Croy and Bzorgi in recitation of the use of plural units connected to a manifold and monitoring wells. It is well known to use multiple treatment wells, connected to a manifold, and to use monitoring wells, as exemplified by Billings and Ellis (see figure 1 of Ellis and figures 2 and 13-32 of Billings). It would therefore have been obvious for one of ordinary skill in the art to use multiple wells in the systems of Croy and Bzorgi, depending on the extent of the contamination, and to use monitoring wells to determine the extent of the contamination and the amount of free product remaining.

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With respect to claim 16, it is submitted that a window for monitoring is disclosed by Croy as reference numeral 90.

Claim 8 differs from Croy and Bzorgi in recitation of adding a source of oxygen to remediate the groundwater. It is submitted that Billings and Ellis disclose vapor extraction along with addition of oxygen to remediate the groundwater. It is therefore submitted that the addition of oxygen to remediate the groundwater of Croy and Bzorgi would have been obvious for one skilled in the art, to remove any contaminant dissolved in the groundwater.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Other references of interest include Udell, Gorelick, Caplan, Grant, Mohs and Rudder.

7. Any inquiry concerning this communication should be directed to Christopher Upton at telephone number (703) 308-3741.

A handwritten signature in black ink, appearing to be 'CU' with a stylized flourish.

**CHRISTOPHER UPTON
PRIMARY EXAMINER**